



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,151	09/08/2003	Noboru Fujiwara	09141.0003	1351
22852	7590	08/03/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			LUONG, VINH	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/656,151	Applicant(s) FUJIWARA, NOBORU	
	Examiner Vinh T. Luong	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Vinh T. Luong
Primary Examiner

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3682

1. Applicant's election of the species of Figs. 1A, 1B, and 3 in the reply filed on July 7, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse. MPEP § 818.03(a).

2. Claims 4, 6, and 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 7, 2005.

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the

Art Unit: 3682

printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because the abstract: (a) refers to purported merits or speculative applications of the invention and compares the invention with the prior art.

See lines 1-4; and (b) exceeds 150 words. Correction is required. See MPEP § 608.01(b).

6. The drawings were received on February 22, 2005. These drawings are accepted by the Examiner.

7. The Preliminary Amendment filed on May 20, 2004 has been entered.

8. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT

(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

Art Unit: 3682

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

9. The disclosure is objected to because of the following informalities: the disclosure should be arranged in the order listed above. For example, the Brief Description of Drawings should be arranged next to the Background Art, and the Explanation of Reference Numerals should be deleted. Appropriate correction is required.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-3, 5, and 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms such as "changeable" in claim 1, and "pivotable" in claims 3 and 7 are vague and indefinite in the sense that things which may be done are not required to be done. For example, in claim 3, the cam member 20 is pivotable, but is not required structurally to be pivoted about an axis of the pivot shaft 30. See "discardable" in *Mathis v. Hydro Air Industries*, 1 USPQ2d 1513, 1527 (D.C. Calif. 1986), "crimpable" in *Application of Collier*, 158 USPQ 266 (CCPA 1968), "removable" in *In re Burke Inc.*, 22 USPQ2d 1368, 1372 (D.C. Calif. 1992), and "comparable" in *Ex parte Anderson*, 21 USPQ2d 1241, 1249 (BPAI 1992).

Art Unit: 3682

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. Claim 1, as best understood, is rejected under 35 U.S.C. 102(a) as being anticipated by Kubota (Japanese Utility Model No. 2002-308084 cited in Applicant's European Search Report).

Kubota teaches an apparatus for applying a reaction force to a pedal member 3 which is pivotably supported by a support shaft 4 and which is depressible to be pivoted about an axis 4 of said support shaft 4, said apparatus by comprising:

a changeable reaction-force applying device 1 for applying said reaction force to said pedal member 3 and changing said reaction force; and

a reaction-force controlling device 8 for controlling said changeable reaction-force applying device 1 such that said reaction force is changed on the basis of a depressing stroke of said pedal member 3, according to a predetermined pattern of change of said reaction force.

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1, 2, and 5, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Steinmann (German OS # 2638962).

Art Unit: 3682

Regarding claim 1, Steinmann teaches an apparatus for applying a reaction force to a pedal member 17 which is pivotably supported by a support shaft 5 and which is depressible to be pivoted about an axis 5 of said support shaft 5, said apparatus by comprising:

a changeable reaction-force applying device 23 for applying said reaction force to said pedal member 17 and changing said reaction force; and

a reaction-force controlling device 18 for controlling said changeable reaction-force applying device 23 such that said reaction force is changed on the basis of a depressing stroke of said pedal member 17, according to a predetermined pattern of change of said reaction force.

Regarding claim 2, said changeable reaction-force applying device 23 includes a spring member 23 which is connected, at one of opposite ends thereof, with a connected portion 24 of said pedal member 17 that is distant from said support axis 5 of said support shaft 5, and which is mechanically elastically deformed upon depression of said pedal member 17, for thereby applying said pedal reaction force to said pedal member 17; and a reaction-force changing mechanism 20, 22 for changing said reaction force, by moving the other of said opposite ends of said spring member 23 toward and away from said connected portion 24 of said pedal member.

Regarding claim 5, said reaction-force controlling device 18 includes a transmission mechanism 18 which connects said pedal member 17 with said changeable reaction-force applying device 23, for transmitting pivot motion of said pedal member 17 to said changeable reaction-force applying device 23 upon depression of said pedal member 17.

16. Claims 1 and 5, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Cicotte (US Patent No. 5,823,064).

Art Unit: 3682

Regarding claim 1, Cicotte teaches an apparatus for applying a reaction force to a pedal member 20 which is pivotably supported by a support shaft 24 and which is depressible to be pivoted about an axis 24 of said support shaft 24, said apparatus by comprising:

a changeable reaction-force applying device 90, 94, 97-99 (Figs. 9A and 9B) for applying said reaction force to said pedal member 20 and changing said reaction force; and

a reaction-force controlling device 40 for controlling said changeable reaction-force applying device 90, 94, 97-99 such that said reaction force is changed on the basis of a depressing stroke of said pedal member 20, according to a predetermined pattern of change of said reaction force.

Regarding claim 5, said reaction-force controlling device 40 includes a transmission mechanism 40 which connects said pedal member 20 with said changeable reaction-force applying device 90, 94, 97-99, for transmitting pivot motion of said pedal member 20 to said changeable reaction-force applying device 90, 94, 97-99 upon depression of said pedal member 20.

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

18. Claims 1, 2, and 5, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Tulaczko et al.'366 (US Patent No. 6,679,366 B2).

Regarding claim 1, Tulaczko'366 teaches an apparatus for applying a reaction force to a pedal member 1a which is pivotably supported by a support shaft 10 and which is depressible to be pivoted about an axis 10 of said support shaft 10, said apparatus by comprising:

a changeable reaction-force applying device 3a for applying said reaction force to said pedal member 1a, 1b and changing said reaction force; and

a reaction-force controlling device 12a, 12b for controlling said changeable reaction-force applying device 3a such that said reaction force is changed on the basis of a depressing stroke of said pedal member 1a, 1b according to a predetermined pattern of change of said reaction force.

Regarding claim 2, said changeable reaction-force applying device 3a includes a spring member 3a which is connected, at one (16a, Fig. 1) of opposite ends thereof, with a connected portion 14 of said pedal member 1a that is distant from said support axis 10 of said support shaft 10, and which is mechanically elastically deformed upon depression of said pedal member 1a, for thereby applying said pedal reaction force to said pedal member 1a; and a reaction-force changing mechanism 2 for changing said reaction force, by moving the other of said opposite ends of said spring member 3a toward and away from said connected portion 14 of said pedal member 1a.

Regarding claim 5, said reaction-force controlling device 12a, 12b includes a transmission mechanism 14, 18a which connects said pedal member 1a, 1b with said changeable reaction-force applying device 3a for transmitting pivot motion of said pedal member 1a, 1b to said changeable reaction-force applying device 3a upon depression of said pedal member 1a, 1b.

Art Unit: 3682

19. Claims 3, 8, and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

20. Claim 7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

21. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Basnett (reaction-force applying device 28), Schroter (cam 6'), Tulaczko et al.' 356 (claims 1-7), and Lewis (cam 24).


23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 571-272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

July 29, 2005


Vinh T. Luong
Primary Examiner